



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA-R08-OAR-2019-0037; FRL-9990-08-Region 8]

Revision to Approval of Application Submitted by Eastern Shoshone Tribe and Northern Arapaho Tribe for Treatment in a Similar Manner as a State Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of final action.

SUMMARY: This document announces that the EPA Regional Administrator for Region 8 has revised the EPA's December 6, 2013 approval of an application submitted by the Northern Arapaho Tribe and Eastern Shoshone Tribe (Tribes) of the Wind River Indian Reservation for treatment in a similar manner as a state (TAS) pursuant to the Clean Air Act and the EPA's implementing regulations for purposes of certain Clean Air Act provisions. This revision is in accordance with a decision of the United States Court of Appeals for the Tenth Circuit holding that a 1905 Congressional Act diminished the Wind River Indian Reservation.

DATES: The EPA's revision to the decision approving the Tribes' TAS application was issued and took effect on February 25, 2019.

ADDRESSES: You may review a copy of the EPA's revision to the December 6, 2013 Wind River TAS decision, as well as copies of the original December 6, 2013 TAS Decision Document and associated attachments and supporting information, at the EPA Region 8 Office, 1595 Wynkoop Street, Denver, Colorado 80202-1129. If you wish to review the documents in hard copy, the EPA requests that you contact the individual listed below to view these documents. You may view the hard copies of these documents Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays. If you wish to examine these documents, you

should make an appointment at least 24 hours before the day of your visit. Additionally, these documents are available electronically. The EPA has established a docket for this notice under Docket ID No. EPA-R08-OAR-2019-0037. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. These documents are also available electronically at: <http://www2.epa.gov/region8/tribal-assistance-program>.

FOR FURTHER INFORMATION CONTACT: Monica Morales, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6936, morales.monica@epa.gov.

SUPPLEMENTARY INFORMATION: On December 17, 2008, as supplemented on December 23, 2008, the Tribes submitted their TAS application as authorized by Clean Air Act section 301(d) (42 U.S.C. 7601(d)) and EPA regulations at 40 CFR part 49. In their application, the Tribes requested TAS eligibility for purposes of Clean Air Act provisions that generally relate to grant funding (e.g., for air quality planning purposes) (section 105 (42 U.S.C. 7405)); involvement in EPA national ambient air quality redesignations for the Reservation (section 107(d)(3) (42 U.S.C. 7407(d)(3))); receiving notices of, reviewing, and/or commenting on certain nearby permitting and sources (sections 505(a)(2) (42 U.S.C. 7661d(a)(2)) and 126 (42 U.S.C. 7426); receiving risk management plans of certain stationary sources (section

112(r)(7)(B)(iii) (42 U.S.C. 7412(r)(7)(B)(iii)); and participation in certain interstate and regional air quality bodies (sections 169B (42 U.S.C. 7492), 176A (42 U.S.C. 7506a) and 184 (42 U.S.C. 7511c). On December 6, 2013, the EPA Region 8 Regional Administrator approved the Tribes' TAS application for purposes of administering the specified functions with respect to the Wind River Indian Reservation. See 78 FR 76829 (December 19, 2013). As required by EPA regulations, the EPA's TAS decision included a determination of the geographic scope of the Tribes' Reservation. Several parties filed timely challenges to the geographic scope of the EPA's TAS decision in the United States Court of Appeals for the Tenth Circuit. Those challenges resulted in a final court decision holding that a 1905 Congressional Act (33 Stat. 1016 (1905)) diminished the Wind River Indian Reservation. *Wyoming v. EPA*, 875 F.3d 505 (10th Cir. 2017), *cert. denied*, 138 S. Ct. 2677 (2018). In accordance with that final judicial decision, on February 25, 2019, the EPA Region 8 Regional Administrator revised the geographic scope of the original TAS approval by excluding lands addressed in Article I of the 1905 Act that have not been placed into trust status. This revision rendered the EPA's TAS approval consistent with the Tenth Circuit's decision.

Judicial Review: Pursuant to section 307(b)(1) of the Clean Air Act (42 U.S.C. 7607(b)(1)), Petitioners may seek judicial review of this revision to the TAS approval decision in the United States Court of Appeals for the appropriate circuit. Any petition for judicial review shall be filed within 60 days from the date this document appears in the *Federal Register*, *i.e.*, not later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Authority: 42 U.S.C. 7401, *et seq.*

Dated: February 27, 2019.

Douglas Benevento,
Regional Administrator,
EPA Region 8.

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